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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,604	03/16/2004	Wallace James	JW04-001	1782

7590

10/05/2005

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EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,604

Applicant(s)

JAMES, WALLACE

Examiner

Gary K. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 21-27 and 35-38 is/are rejected.
7) ☒ Claim(s) 28-34 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Per applicant's instructions, in the 20 July 2005 amendment, exhibit B listing of claims has been used. The claims listed in applicant's exhibit A do not match the original claims on file. In future amendments claims 1-20 must be listed as canceled such that a complete and correct listing of the claims is provided.

Claim Objections

Claims 28-34 are objected to because of the following informalities: In claim 28, as the claim sets forth the wiper system positively mounted to a truck mirror, it appears confusing to define the mounting bracket as "for attaching" the cylinder to an exterior surface of the mirror. The claim should positively claim the bracket with the mirror such that there is no confusion that the combination of wiper system with the mirror is being claimed. It appears that in line 5, the bracket should be defined as ---attaching--- instead of "for attaching". In line 6, it appears the angled member should be ---attached--- instead of "for attachment". In line 8, ---attached--- should be used instead of "attachment".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-24, 26 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Bissell (US patent 4,896,395).

The patent to Bissell discloses the invention, a wiper system (10) mounted to a truck mirror (12), as is claimed. Bissell discloses (figs. 2, 5) a double acting pneumatic cylinder (23) coupled with a compressed air source (P) via air line (32) and manual valve switch (31). The cylinder has a threaded operating rod or arm (24) that is extendable and retractable (solid/dashed line in fig. 2) over a stroke approximately the width of the mirror. Blade (44, 45) is connected through numerous threaded couplings to said rod. A mounting means or bracket (35) is coupled to the front of the cylinder and a backside of the mirror. Said bracket positions the front of the cylinder adjacent to a vertical side of the mirror. Said bracket is considered a low-profile means, at least as far as defined, and has numerous angled portions and is considered to be an angled member. Note angular clamp surfaces (38, 38a).

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With respect to claim 21, note that the claimed wiper system is “for” a truck mirror and is not coupled thereto. Thus, the mounting bracket as “for” attaching the pneumatic cylinder abutting the vertical side of the mirror does not require any abutting of the bracket with the mirror.

Likewise, there is no extension of the operating arm from a first vertical side to a second vertical side as the vertical sides of the mirror do not make up any part of the claimed wiper system “for” a truck mirror. Bissell has the structural components claimed. Their relationships with the mirror are do not appear of patentable significance as the mirror is not part of the claimed wiper system.

With respect to claim 35 and defining the mounting means as a low-profile means, such does not define over the means of Bissell. Such defines no particular structure for the mounting means, at least none not disclosed by Bissell.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissell (US patent 4,896,395) in view of DeGraw (US patent 3,866,258).

The patent to Bissell discloses all of the above recited subject matter with the exception of the pneumatic cylinder being a single action cylinder and the switch being configured to automatically control such cylinder for extension and retraction.

The patent to DeGraw discloses a wiper system for truck mirrors (figs.2, 3) that employs single acting pneumatic cylinders (26,28) with springs (64,66) to provide for extension and retraction. DeGraw also discloses the switch (38) that controls the cylinders being configured to automatically control both extension and retraction.

It would have been obvious to one of skill in the art to provide the system of Bissell with an automatically controlled extension/retraction single acting cylinder with spring instead of a double acting cylinder, as suggested by DeGraw, as a mere equivalent alternative cylinder structure and to provide automatic extension and retraction

Response to Arguments

Applicant's arguments filed 20 July 2005 have been fully considered but are not persuasive. Applicant argues that DeGraw discloses a wiper system that poses a visual obstacle along the entire side of the mirror. It is noted however that the DeGraw wiper assembly is only relied upon for its teaching of a single acting cylinder used to actuate mirror wipers. Such teaching is used in combination with the Bissell wiper system. Whether or not DeGraw poses a visual obstruction does not appear to be at issue. Further, such does not appear of consequence as the claims do not speak to the visual aspects of the wiper system and set forth no structure that differentiates with respect to the applied art. Also, it is noted that applicant's wiper system also protrudes from the side of the mirror to pose a visual obstacle. In any event, DeGraw is no longer applied in view of the amendment to the claims.

Applicant also argues that the Bissell wiper system has components that protrude from and pose a visual obstacle along the entire side of the mirror. Such does not appear of consequence as the claims do not speak to the visual aspects of the wiper system and set forth no structure that differentiates with respect to Bissell. Further, it is noted that applicant's wiper system also protrudes from the side of the mirror to pose a visual obstacle. How do the claims distinguish the visual obstacle of Bissell from applicant's own visual obstacle? As set forth above, Bissell clearly discloses the pneumatic cylinder being mounted adjacent to a vertical side of the mirror. As such, Bissell meets the claims.

Allowable Subject Matter

It appears claims 28-34 would be allowable if rewritten or amended to overcome the objections set forth in this Office action. The claimed combination where the mounting bracket positions the front of the cylinder abutting the vertical side of the mirror such that the operating arm extends from the first vertical side toward the second vertical side during extension does not appear to be taught by Bissell.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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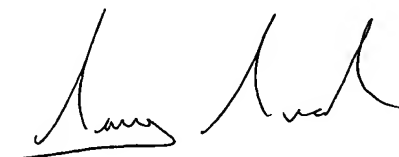
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Gary K. Graham', with a horizontal line underneath the first part of the signature.

Gary K Graham
Primary Examiner
Art Unit 1744

GKG
29 September 2005